

Application No. 10/606,298

### **REMARKS**

The Examiner's rejections under 35 U.S.C. 103 with respect to Claims 1 to 30 being unpatentable over U.S. Patents 6,495,302 or 6,582,873 in view of Patel et al. Publication 2003/0180648 are respectfully traversed.

Each of the references has been reviewed, including the specific column numbers and line numbers referred to by the Examiner, and it is believed that the Examiner has not established a prima facie case of obviousness in that he has not pointed out, for example, why the combination of components of rejected Claim 1 is disclosed or obvious from the prior art. The Examiner has pointed out that for the emulsion aggregation process it is known to add a coagulant and a wax to prepare a toner, however, the Examiner has not rendered any comments concerning the utilization of an organic sequestering agent. As the Examiner points out, the primary reference 6,495,302 is directed to a toner coagulant process and wherein there can be included a base therein, and also waxes, see column 14, beginning at line 50. The Examiner has pointed to no teachings in the '302 patent, the other references, or the combination of references wherein there is selected a sequestering agent. Accordingly, it is respectfully urged that the Examiner reconsider his position and withdraw his rejections.

Concerning the double patenting rejection with regard to Claim 22 being rejected under the judicially created doctrine of obviousness as double patenting over Claim 25 of U.S. Patent 6,465,302, it is respectfully urged that the Examiner revisit this rejection in that Claim 25 of the '302 patent, while reciting the utilization of a coagulant, does not appear to specifically recite a sequestering agent, which is believed to be substantially dissimilar in its function, for example, than a chelating component. The purpose of the chelating component is illustrated in the '302 patent, column 2, beginning at line 56, as being for freezing or stabilizing the aggregates. Also, the Examiner is referred, for example, to column 9, beginning at line 53, of the

Application No. 10/606,298

'302 patent, and wherein one preferred reagent is a sulfonated 8-hydroxquinoline. While there is disclosure in column 3, beginning at line 1, of the '302 patent that the organic chelating agent can react with aluminum to form a stable complex, the Examiner has pointed to no teachings in this patent with respect to the combination of components recited, for example, in rejected Claim 1, and more specifically, wherein sequestering agents are selected, reference Claims 5 and 6 of the present application. The aforementioned comments are also applicable to the rejections under 35 U.S.C. 103. As the Examiner appreciates, this technology is complex and unpredictable and one of ordinary skill in the art would most likely not arrive at the present invention without the teachings of the application before such a person, and moreover, undue experimentation would be involved it is believed.

Concerning the judicially created doctrine of obvious type double patenting of Claims 1 to 21 and 23 to 30, while in disagreement with the Examiner's positions for the reasons as stated herein, Applicants are submitting herewith a Terminal Disclaimer whereby any patent resulting from the present application will expire simultaneously with U.S. Patent 6,582,873, noting that the chelating agents of Claim 5 referred to by the Examiner are dissimilar than the sequestering agents as recited, for example, in Claims 5 and 6 of the present application.

Application No. 10/606,298

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby requested to call Eugene O. Palazzo, at Telephone Number 585-423-4687, Rochester, New York.

Respectfully submitted,



Eugene O. Palazzo  
Attorney for Applicant(s)  
Registration No. 20,881  
(585) 423-4687

EOP/jah

October 7, 2005

Xerox Corporation  
Xerox Square 20A  
Rochester, New York 14644